

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Laura Ramirez, James Ramirez,)	
and Anthony Ramirez,)	
)	
Plaintiffs,)	
)	
v.)	05 C 317
)	
City of Chicago, et. al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

Defendant Carl Suchocki ("Suchocki") has tendered his proposed Answer and Affirmative Defenses ("ADs") to the Fifth Amended Complaint ("FAC") filed against him and a large number of other defendants by members of the Ramirez family (collectively "Ramirezes"). Suchocki's counsel has noticed up a motion seeking leave to file that responsive pleading instant, stating that Ramirezes' counsel has no objection.

This Court grants leave to file the proffered pleading without any need for either side's counsel to appear on the February 23, 2007 presentment date, but it does so subject to some limited terms applicable to Suchocki's ADs. Here they are:

1. ADs 1 through 5 are rejected to the extent that Suchocki seeks to assert them against the principal gravamen of Ramirez' Complaint, which sounds in federal law under 42 U.S.C. § 1983 (see Counts I through VII).
2. As for Ramirez' claims that do sound in state law

(Counts VIII through XV), Suchocki's first five ADs are improperly advanced to the extent that they are at odds with Ramirezes' allegations -- see Fed.R.Civ.P. 8(c) as well as the caselaw applying it and App. 5 to State Farm Mut. Auto. Ins. Co. v. Riley, 199 F.R.D. 276, 279 (N.D. Ill. 2001).

Because Suchocki has not been identified by name in any part of the FAC, those ADs will not be stricken at this point, but that possibility remains for the future.

3. ADs 6 and 7, which assert a limitations defense, will be considered only to the extent that the FAC advances no stale claims in those terms (something that is certainly not true of all of Ramirezes' claims).



Milton I. Shadur
Senior United States District Judge

Date: February 20, 2007